

Springfield Township
Planning Commission – Business Meeting
Minutes April 16, 2012

Call to Order: Chairman Baker called the April 16, 2012 Business Meeting of the Springfield Township Planning Commission to order at 7:30 p.m. at the Springfield Township Civic Center, 12000 Davisburg Road, Davisburg, MI 48350.

Attendance:

Commissioners Present:

Dean Baker
Ruth Ann Hines
Bill Leddy
Kevin Sclesky
Beverly Shaver
Neil Willson

Commissioners Absent

Dave Hopper

Staff Present

Collin Walls, Supervisor

Consultants Present

Dick Carlisle, Planner

Approval of Agenda:

Commissioner Willson moved to approve the agenda as presented. Supported by Commissioner Shaver. Voted yes: Baker, Hines, Leddy, Sclesky, Shaver, Willson. Voted no: None. Absent: Hopper. Motion Carried.

Public Comment: None.

Consent Agenda:

- 1. Minutes of the March 19, 2012 meeting**
- 2. Dave Hopper Appointment to the Planning Commission**

Chairperson Baker added recognition of a memo included in the Planning Commission packet indicating that Roger Lamont is leaving the Planning Commission as Township Board representative and Dave Hopper was named by the Township Board as the new Planning Commission representative on Thursday, April 12, 2012. Chairperson Baker thanked Mr. Lamont for his many years of service to the Planning Commission and Township.

Commissioner Sclesky moved to approve: 1.) Minutes of the March 19, 2012 meeting as presented and 2.) Recognition of Dave Hopper as a member of the

Planning Commission as Township Board representative effective April 2012 until November 2012. Supported by Commissioner Shaver. Voted yes: Baker, Hines, Leddy, Sclesky, Shaver, Willson. Voted no: None. Absent: Hopper. Motion Carried.

Public Hearing:

1. Amendment to Zoning Ordinance No. 26, Amend Subsection 16.04.1 – Access Management

Public Hearing was opened at 7:34 pm.

No public comments received.

Public Hearing was closed at 7:35 pm.

New Business:

1. Amendment to Zoning Ordinance No. 26, Amend Subsection 16.04.1 – Access Management

Commissioner Sclesky asked if the amendment needed any language stating that this pertains to non residential properties.

Commissioner Hines stated that 1.a. says that it will be for non residential purposes.

Mr. Carlisle answered that this would cover it. He stated that these provisions only come into effect when a site plan is reviewed. These regulations are to address multiple types of access.

Commissioner Hines moved that the Zoning Ordinance, Amendment Subsection 16.04.1 regarding access management be forwarded to the Township Board for their consideration and approval as written and discussed. Supported by Commissioner Willson. Voted yes: Baker, Hines, Leddy, Sclesky, Shaver, Willson. Voted no: None. Absent: Hopper. Motion Carried.

2. Mining and Extraction – presentation and discussion

Mr. Carlisle stated that there has been a major shift in how the legislature considers how sand and gravel operations should be regulated. The amendment enacted last year was one of the first times that the legislature has directly taken on an issue that was contradictory to a decision by the Michigan Supreme Court. For many years in Michigan sand and gravel extraction received preferred status as a land use activity as the result of a 1982 Supreme Court Case. In this decision, the Court made a decision that was contrary to zoning but gave a preferred status to mineral mining by establishing a rule which essentially said that you could not deny sand and gravel operation without defining very serious consequences as a result of that operation. Mineral mining was given a preferred

use and it shifted the burden of proof from the applicant to the municipality. In general, zoning standards are written so that there is a legitimacy granted to government for protection of public health, safety and welfare. This decision shifted the burden from the applicant to the municipality and the municipality would have to prove very serious consequences would result. Under this rule there was a number of cases in Michigan in which communities felt that there was a serious problem and those cases were lost. In 2010 a Township in North Michigan, Kasson Township, was faced with a decision by a property owner named Kyser. Kasson Township, Michigan Association of Planning and Michigan Townships Association decided that they were going to challenge the ruling because of a sand and gravel operation that was proposed in their community. The Supreme Court agreed with them and struck down the very serious consequences rule. The Michigan Supreme Court that made this decision is seen as composed of conservatives. Their belief was that sand and gravel operations should not be given preferential treatment over and above other specific land uses and there was already case law that prevented communities from being exclusionary. Communities already had enough restriction on them to avoid being exclusionary and consequently any community's decision has to be based on a legitimate governmental interest and providing reasonable protection for the public health, safety and welfare. The Michigan Supreme Court agreed with this argument and there need not be special rules and they struck down the Silva decision. Many people applauded this decision as being reasonable law. As a result, the sand and gravel industry made substantial effort and in 16 days convinced the Michigan legislature to reverse the case on case ruling and amend the Michigan Zoning and Enabling Act legislation. He stated that this was an unusual decision made very quickly and behind closed doors. The sand and gravel operators felt that they had a legitimate argument and felt that they wanted the ruling that they had from 1982 with the Silva case. Sand and gravel is a valuable resource and where it is located is where they have to mine it. Mr. Carlisle stated that its value has to be mitigated with the concerns on what the rest of the community is composed of and the potential impact that it will have.

Mr. Carlisle stated that they now have to live with this amendment from the Michigan Zoning and Enabling legislation which says that the burden is shifted back on the municipalities to prove that there are serious implications. This means that Springfield needs to evaluate if they feel like there is the prospect of having new sand and gravel operations. This includes going back and looking at the ordinance and he included several things to look at in the memo. The Commission should look at where sand and gravel might potentially be located in the community and not result in very serious consequences. They need to look at the relationship to other potential land uses, property values, pedestrian and traffic safety and other public health and safety concerns. The other thing to look at would be significant impact on resources which would be irreplaceable and intertwined with the character of the community. He couldn't say if there was any impending threat but the legislation that was passed restores a rule imposed by the courts and it is now codified and puts the burden of proof on the municipality. Few land uses could have an effect on the area like sand and gravel extractive operations. He suggested that if there is a concern, then the next step would be to take a look at the

ordinance and look at what changes needed to take place to incorporate the results of the legislative amendments.

Commissioner Hines asked if our ordinance would recognize the very serious consequences.

Mr. Carlisle answered not necessarily because he didn't know if the ordinance reflects the decision in the 1982 case, but it deserves a look. Mr. Carlisle stated that he does not recall reviewing those revisions.

Commissioner Shaver asked what zone the mining extraction fell into.

Mr. Carlisle stated that there is a discreet zoning district which is E-1. He stated that this might be questionable if this is up for challenge.

Chairperson Baker stated that in the rest of the zoning districts they take a proactive stance and suggest what land uses they propose.

Commissioner Hines asked if someone wanted to mine, would they have to have the property rezoned to extractive and then comply with the provisions.

Mr. Carlisle answered yes and this raises questions where you bring in a whole new set of standards for the rezoning than you would normally bring in. To make a decision of "very serious consequences" you would have to have information.

Commissioner Shaver asked if the Township would be responsible for the financial burden of proving.

Mr. Carlisle answered that the law doesn't prevent the municipality from asking for and receiving the normal information that they would get, however to be able to prove "very serious consequences" they might be required to conduct their own studies with their own experts.

Mr. Carlisle stated that there is a whole set of factors that the Township can bring into consideration for example impact on property values, the typical nuisance characteristics, environmental impacts, noise, traffic, etc.

Commissioner Hines stated that the company can say there is gravel there and they want to take it out and the Township would say no because of X, Y and Z.

Commissioner Shaver asked if there was any mapping showing areas likely to contain sand and gravel.

Supervisor Walls stated that in the 1970's there was a rezoning request for approximately 800 acres that was withdrawn. He suggested that when they look at Mr. Carlisle's memo, it shows that the applicant must show that there are natural resources and that there is a

need for the resource first. He stated that there was a significant court case won by Highland Township because the applicant could not prove that there was a need for the gravel. He stated that there is a mining operation off of Tindall Road in which the actual mining takes place in Groveland Township and the processing takes place in Springfield. This same company also owns the Valentine pit.

Commissioner Shaver stated that it does not appear to be an immediate problem because they have not been approached by an applicant but it needs to be addressed.

Chairperson Baker asked if any of the language that is part of the new agreement is relevant to restoration of the site. He asked if they are limited in this language.

Mr. Carlisle stated that there is nothing in there that is relative to the regulatory part of it. He stated that permitting the land use activity initially is what is pertinent to this legislation.

Mr. Carlisle suggested that they look at the current ordinance to see whether it affords the Township with the proper protection and then Carlisle Wortman would come back with recommended changes if needed.

Commissioner Hines asked if the applicant challenged the Township's decision, they have to prove that there are resources there, there is a need for them and that no serious consequences would result.

Mr. Carlisle concurred. He pointed out that in subsection #3 it says that "an ordinance shall not prevent the extraction by mining of viable natural resources of any property unless very serious consequences would result from the extraction of those natural resources." He says that subsection #5 lays out what the burden of proof really is and essentially the burden is shifted to the municipality. This reenacted the Silva case of 1982 which did not prevent the mining from occurring unless there were very serious consequences showing.

Commissioner Willson stated that is probably not impossible to prove that there are consequences for this activity. He asked what makes a consequence difficult.

Mr. Carlisle answered that this was the difficult part. He stated that he presented a very simplified version to the Commissioners and the level of detail would be very different on a case by case basis.

Commissioners discussed and agreed to have Carlisle Wortman review the current extractive section of the ordinance and bring their comments and suggestions for additions or modifications to the Commission for the next meeting.

Mr. Carlisle stated that they might also get the Township Attorney involved.

3. Dixie Highway – Market Study – presentation and discussion

Mr. Carlisle stated that what he provided is not a full-blown market study like you would see from a real estate market analysis. He stated that he did a take off from the concept plan that was presented in May 2010. They took what they had done and looked at some numbers as to what the effect would be from a land use standpoint. It was divided into 3 areas: local development zone, redevelopment zone and the regional zone. These ideas came about when they were talking about the Master Plan that preceded the Dixie Corridor Study which is when they started to look at the Dixie Corridor as an area that was different than the rest of the community. The effect of development of this area would not be the same as an interior area of the Township if it were to develop at the same intensity. There are some natural barriers to restrict the development of this area. They created road circulation patterns and to some extent the land use categories were important but the concept as to how this area is to be developed is more important. Mr. Carlisle stated that they took the land use patterns and developed what the land use acreages were. There was 36 acres devoted to residential, a little under 10 acres devoted to mixed use senior living, mixed use retail and mixed use commercial. He assigned factors to the different uses depending on the intensity at which it could occur. He assumed that the attached residential would develop at about 4 units per acre. The elderly housing area was 8 units per acre. He applied calculations to the office retail and commercial in terms of what the potential build out would be of those 2 categories. He went back and tested these to see how they compared with actual plans that they had approved and it was very close.

Mr. Carlisle stated that the ultimate calculations were included in the chart on the second page of the handout given to the Commissioners. In 2009 he presented information based on the trends in Oakland County and how Springfield Township compared to similar communities. He looked at the amount of commercial and mixed commercial acreage. One of the observations was that there were some large parcels where certain types of commercial uses could be developed and then there were scattered smaller commercial parcels which are probably not going to be much more than what they are right now. Springfield Township had a disproportional amount of land devoted to automotive related uses. The plan that was created for Dixie and I-75 was not based on meeting a market need for the community but instead looked at this area as being more of a regional site. Ultimately it would be an area in which the community could develop a tax base in a regional market area. The 2010 Dixie Corridor plan added more information based on how this would look if the vision was developed appropriately for the community.

Mr. Carlisle stated that there are a lot of “what ifs” with this plan. We are still recovering from very difficult economic times and this will not be happening in the near future, however it does give the Township the ability to respond to anything that might happen and put it into the context of long term. He stated that when the Dixie Baptist site was proposed, there was much that needed to take place in order to be able to accommodate what was being proposed. In the absence of any type of central services, meaning water and sewer, this plan is not viable. In the standpoint of market potential, it would be difficult for a seasoned market analyst to estimate that in the present economic

environment. This should be viewed as a vision and a plan for the Township which can be revised as necessary so they are prepared for what happens down the road. He did include excerpts from the plan in the document for the Commissioners. After the Planning Commission got done looking at the plan, he does not think it went anywhere else, for example to the Township Board.

Supervisor Walls stated that he could find no evidence of that. He stated that a great deal of very good work was done which sat. The existing approved Dixie Corridor plan is the 2000 version. He does have some concerns; one is that grand vision comes at a grand cost. The difficulty is that the document does not say clearly who is paying the cost. If it is truly the desire to generate interest in a regional development than you have to come up with a municipal plan which comes at a cost and this would come to taxpayers at a time that is very difficult. He suggested that they explore this component or at least say that this has not been explored however this cannot happen until this is developed. Without this exploration, they have put a lot of work into something is not going to have a great impact. The development goals get lost when you look at the drawing and he would like to see the last drawing removed. The concept plans show traffic areas and landscaping. It is hard to put dollars and cents numbers on something unless you can grasp what type of value might be generated from the plan. Using the Redico project, the amount of tax revenue paid to Springfield Township would not have paid the increases to police and fire service alone. They began this evening to implement sections of this plan through the access management amendments. There are also things that can be done to address non-conformance .

Mr. Carlisle stated that this did take place over a period of a couple of years and there was more discussion than what Supervisor Walls was characterizing.

Supervisor Walls stated that there was nothing in the public record that indicated that there was any analysis of cost. There was a discussion regarding funding mechanisms such as grants.

Mr. Carlisle stated that it ended inconclusively. He stated that many of the things that Supervisor Walls is talking about were discussed, but there were not specific conclusions reached on these items.

Chairperson Baker stated that he does not disagree that the issues of financing of municipal services was not discussed. The reality that they did not exist was well noted and there was discussion around the steps that would need to take place to connect to Independence facilities located on Dixie Highway. There were various aspects that were seen as challenges there because of capacity issues and unknown things that were yet to be developed. There was a lot of discussion around the traffic access and the challenges that Lavon presents and a northbound exit to I-75. He stated that the Planning Commission did not say "let's end this discussion here." His impression is that they had representatives of the Township Board at the meetings and part of this was brokered and sponsored by the Township Supervisor who was in attendance. He cannot deny that there is no document that says that the Planning Commission recommends review and

feedback from the Township Board. He stated that his impression was that this was going to take place and that they would receive feedback from the Township Board after their review.

Commissioner Leddy stated that the Planning Commission knew that the whole thing would hinge on the utilities being provided somehow and that is where it stopped. They were waiting on utility possibilities that never came through.

Supervisor Walls stated that his question is how they bring this to the point when a developer approaches in 5 years, they have a plan to submit to him.

Commissioner Sclesky asked if the first step would be to share with Independence Township what their ideas are for Dixie Corridor.

Mr. Carlisle stated that any extension of the utility system from Independence Township is a dead issue. This has been asked and answered.

Supervisor Walls stated that the only connection is actually Pontiac. He never participated in a discussion regarding the extension of the water system; the past discussions involved the sewer system.

Commissioner Leddy asked if they could do a separate space analysis without those systems.

Supervisor Walls suggested having discussions regarding what different types of systems are available, how many people they would serve, and the cost.

Commissioner Leddy stated that they had a presentation by people talking about those types of things. Chairperson Baker and Commissioner Willson concurred.

Commissioner Willson stated that Chairperson Baker summarized what he recalled as well. He stated that they missed a stage to send this to the Board for consideration and he wondered if this revisited document should be sent to the Board for any opinion. Or should they dive back into it as a Commission without sending it to the Board.

Commissioner Sclesky stated that they should do some due diligence on the problem and they need solutions on water and sewage for this area. They should come up with some information to accompany the plan to the Board.

Commissioner Willson stated that perhaps this plan would be sufficient as long as they include an addendum regarding costs and options for a sewer system.

Supervisor Walls stated that the typical plan is the Planning Commission does the work and the Township Board gives their opinion. He stated that they never got to that point because it never got passed on to them.

Commissioner Willson suggested sending this to the Board to get a response and then the Planning Commission will continue to work on it.

Commissioner Shaver stated that this plan provides a gateway to Springfield Township and the Board should see it with the idea that the Planning Commission will continue to explore water and sewer systems.

Commissioner Hines asked who has the expertise to explore this.

Mr. Carlisle stated that he is trying to recall if Hubbell, Roth and Clark was asked for an opinion because there were a lot of things that were asked of them during this point in time that the other group did not know about.

Supervisor Walls stated that they were asked. He has seen a letter that included preliminary cost estimates from Hubbell, Roth and Clark.

Commissioner Willson asked if they should go to Hubbell, Roth and Clark then.

Mr. Carlisle stated that the easiest thing would be for him or Collin Walls to ask Randy Ford to investigate what work they did do, get this information, bring it to the Planning Commission and find out if more investigation needs to be done.

Supervisor Walls concurred with Mr. Carlisle.

Chairperson Baker stated that it seems that they were all in agreement that they wanted to make use of the investment that has been made so far. They all see the value in potential which is certain to take place. They should gather what they can from Hubbell, Roth and Clark and coordinating this with the information that the Planner has provided. This should be revisited by the Planning Commission and then they can fill in the gaps. He suggested that they then have a joint planning session with the Township Board in which Randy Ford and Dick Carlisle are available for questions.

Commissioner Willson reiterated that they needed to forward this information to the Board and they didn't do it. He suggested that they take the information that they have plus any information regarding water and sewer and send it to the Board now. He stated that through the joint session they might not get an informed decision.

Commissioner Sclesky agreed with sharing information and feels that it is a good plan that should be followed through on. He stated that if he was on the Township Board, he would be wondering why someone put the cart in front of the horse. For example, all of this work was done before anyone talked about infrastructure, money and who is going to pay for it.

Commissioner Willson suggested having a session like this in which a Commissioner is available to answer questions.

Chairperson Baker stated that he feels like he would be inadequate to be the answer person regarding community infrastructure. He recommended that Dick Carlisle and Randy Ford are the professionals who would have answers. He suggested that they do the due diligence and answer questions and then once this preparation is done, the groups should be brought together for feedback with the professionals in attendance.

Commissioner Willson stated that they are creating two meetings then.

Commissioner Hines stated that she does not feel comfortable sending something to the Board without details. She suggested that they should finish their portion of it.

Supervisor Walls stated that he will get in touch with Randy Ford and find out what is done and what they already have. They should be able to revisit it in at the next meeting.

Mr. Carlisle stated that Randy Ford will have something that he didn't have before, the numerical data on land use which will be helpful.

Commissioner Sclesky stated that they should get all of the information and all of the alternatives and then send it up with the plan. The work should be completed before it gets presented.

Commissioner Willson asked if they are providing some information regarding community services and is this enough information to accompany the plan up to the Township Board.

Chairperson Baker stated that his version from May 2010 needs the traffic study inserted; this piece needs to be added.

Commissioner Hines and Commission Leddy recalled a lot of discussion regarding ingress and egress and the boulevard concept.

Chairperson Baker stated that if they send it on now, they complete the step of informing the Board.

Supervisor Walls asked the Commissioners if they have seen the Safety Study on the Dixie Corridor that Hubbell, Roth and Clark did.

Commissioners stated that they did not recall.

Supervisor Walls replied that he could get an electronic copy and supply it to all of the Commissioners.

Commissioner Shaver asked if the Dixie Corridor study included further up Dixie Highway.

Mr. Carlisle replied that the study included more area than just the I-75 and Dixie Highway exchange.

Commissioner Leddy stated that Mr. Carlisle's comments need to be added as this is based on obtaining the proper utilities.

Chairperson Baker stated that they will request that between the Planner, Supervisor and Township Engineer information relevant to this topic be gathered and submitted to the Planning Commission. If there were portions of the document to be added, traffic studies, they should be gathered. If gaps are seen, information that can be seen to fill in the gaps should be added too.

Old Business:

1. Village Center – Ordinance amendments

Supervisor Walls stated that this document did not make it to the local businesses yet.

Mr. Carlisle stated that the full document has been given to the Commission for their review.

Chairperson Baker asked how the sewage issues are addressed for principal uses. Mr. Carlisle stated that if they are not able to get an on-site septic permit from Oakland County, it is a non issue. They would need to get this permission first and present it to the Commission.

Commissioner Leddy asked if Broadway Auto was operating in compliance. He recalls that it was supposed to be a limited detailing place, but it seems to be a full blown used car business.

Supervisor Walls stated that the business went to the Board of Appeals for an interpretation.

Chairperson Baker stated that he thought the servicing of the cars was limited to the cars that he was selling.

Commissioner Hines asked if Used Car Sales were a permitted use.

Mr. Carlisle answered no. He stated that this was not permitted by right in the zoning district, it seemed that they went to the Zoning Board of Appeals for an interpretation; but, this has historically been the use of this property.

Commissioner Hines pointed out in Section 9.05(a)1 that “does no apply” should read “does not apply.”

Mr. Carlisle stated that he would have to consult with the Township Clerk for the proper formatting and section numbers. This will be created and the rezoning will happen simultaneously by recommendation from the Township Board.

Diana Walls, 627 Broadway, asked what happens to the road section portion of Reservoir Road that exists now. Supervisor Walls answered that it is not buildable in terms of the plat unless someone goes to court and it becomes dedicated.

Mr. Carlisle stated that they do have a specific definition in the zoning ordinance for automobile filling convenience stations so the permitted use would be limited to that.

Chairperson Baker asked if Section C which mentioned "Service Bay Doors" was necessary if the vehicles are not being serviced.

Mr. Carlisle stated that he would review the definition and would define any limitations if needed. Chairperson Baker stated that his preference would be for them to not to be able to conduct service work in the Village Center Zoning.

Commissioner Hines moved to set for Public Hearing the ordinance provisions establishing the Village Center district noting that Principle Uses Permitted Subject to Special Conditions, #3 is limited to gas stations only, no service work and so Subsection c. would not be applicable. Also, set for Public Hearing section 16.07 Signs as written. In addition, schedule a hearing on rezoning for the proposed Village Center map changes currently zoned C-1 to VC, including the section on Warfield/Andersonville Road that would go from C-1 to R-3. Supported by Commissioner Willson. Voted yes: Baker, Hines, Leddy, Sclesky, Shaver, Willson. Voted no: None. Absent: Hopper. Motion Carried.

Other Business:

1. Update Priority List

Commissioners made updates and revisions to the current Priority List.

Public Comment: None.

Adjournment:

Commissioner Hines moved to adjourn the meeting at 9:33 p.m. Supported by Commissioner Shaver. Voted yes: Baker, Hines, Leddy, Sclesky, Shaver, Willson. Voted no: None. Absent: Hopper. Motion Carried.

Erin Mattice, Recording Secretary